Modernizing Transfer Agent Rules for U.S. Leadership in Tokenized Securities

To: SEC Commissioner Hester Peirce
From: Etherealize
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Subject: Modernizing Transfer Agent Rules for U.S. Leadership in Tokenized Securities

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Dear Commissioner Peirce,

We at Etherealize appreciate your leadership of the SEC's Crypto Task Force and its commitment to developing a clearer regulatory framework for digital assets. We believe tokenization, representing traditional securities as digital tokens on a blockchain, offers substantial benefits, including greater market efficiency, faster settlement, and increased transparency.

Etherealize, launched in January 2025 with support from Vitalik Buterin and the Ethereum Foundation, serves as Ethereum's institutional outreach and policy arm, aiming to bridge the gap between blockchain technology and traditional finance. By promoting Ethereum as a programmable, private, and global settlement layer, Etherealize seeks to modernize the financial system and help update regulatory frameworks to support the integration of blockchain technology into existing financial markets.

Realizing the full potential of tokenization hinges on modernizing transfer agent regulations. Currently, the application of outdated rules designed for legacy systems presents a significant bottleneck, hindering innovation and efficiency. We urge the Task Force to prioritize clarifying that autonomous decentralized systems do not always require 'transfer agents,' the role of transfer agents in relation to these systems, and recognizing blockchain's capabilities as an official record-keeping system.

The Challenge: Applying Legacy Rules to New Technology

The traditional role of a transfer agent, governed by rules developed decades ago, involves maintaining the official ownership record, processing transfers, and handling corporate actions. While essential for paper or fragmented centralized electronic systems, forcing these requirements onto securities tokenized on autonomous decentralized systems creates significant friction.

Blockchain technology provides an immutable, transparent, and real-time ledger. When securities are tokenized on a public blockchain, the blockchain itself can serve as the definitive record. Yet, current practices often compel issuers to retain registered transfer agents who maintain separate, off-chain ledgers, issuing tokens as a ‘souvenir of ownership’ rather than definitive transferable instruments. This duplication effectively makes the blockchain record secondary and non-authoritative and fails to harmonize with State corporate law, such as Delaware law recognizing that blockchains can serve as definitive recordkeeping for book-entry shares and Wyoming law recognizing that blockchain tokens can serve as tokenized stock certificates.

This creates several problems:

- **Inefficiency and Cost:** Maintaining parallel records is redundant and costly, counteracting blockchain's efficiency gains.
- **Negated Benefits:** If the transfer agent's off-chain ledger is authoritative, the core benefits of blockchain (real-time settlement, transparency, reduced risk) are undermined. The token becomes merely a pointer to the *real* record.
- **Operational Friction:** Rules requiring manual reconciliation or imposing processing delays conflict with the instant, automated verification capabilities of blockchain.
- **Stifled Innovation:** The mandatory overlay of traditional transfer agent functions actively discourages the development and adoption of novel, blockchain-native solutions for critical functions like corporate actions and shareholder communication.

Blockchain as a Superior Record-Keeping Solution

Distributed ledger technology offers a robust alternative for transfer agent functions:

- **Immutable Ownership Record:** Blockchain provides a high-integrity, auditable record of ownership.
- **Real-Time Updates:** Transfers are recorded nearly instantaneously, eliminating delays.
- **Enhanced Transparency:** Regulators and authorized parties can have direct, real-time visibility into ownership and transactions.
- **Automation:** Smart contracts can potentially automate corporate actions like dividend distributions directly to token holders and on-chain voting, as well as enforcing compliance rules like the Rule 144 holding period for restricted securities, the SEC’s ‘anti-flowback’ period for Regulation S offerings, the 12(g) threshold for Exchange-Act-reporting, and more.

The Need for Regulatory Clarity

The Crypto Task Force RFI directly solicits input on how blockchain affects transfer agents and whether existing rules hinder its use. This acknowledges the current uncertainty.

Market participants need clear guidance from the SEC confirming that a properly designed blockchain system can serve as the official, authoritative record of ownership for tokenized securities. This means adapting oversight to the technology, not necessarily eliminating it.

Actionable Recommendation: Recognize Blockchain as the Authoritative Ledger

We urge the Task Force to prioritize the following actions:

- **Issue Interpretive Guidance that Ancillary Actors are not "Transfer Agents":** Clarify that, when blockchain systems meet certain standards of decentralization and autonomy and securities tokenization is also sufficiently 'protocolized' on such a system, various "ancillary actors" are not 'transfer agents' with respect to such securities–e.g., software developers and deployers, validator operators, node operators, wallet providers, and operators or providers of non-custodial 'front-ends' or 'interfaces' relating to such systems.
- **Exempt Blockchain-Based Tokenization Systems:** Use the SEC's exemptive authority under Section 17A(c)(1) of the Exchange Act, and the SEC's rulemaking authority with respect to detailed transfer agent regulations, to craft blockchain-based exemptions to existing transfer agent registration mandates and/or tailored blockchain-based equivalents or exceptions to existing transfer agent compliance requirements. For example:
    - exempt *issuers* from transfer agent registration requirements for their own securities when they are using sufficiently decentralized and autonomous security tokenization protocols, even after crossing the 12(g) Exchange-Act-reporting threshold and even if they do not utilize a traditional third-party transfer agent;
    - exempt registered transfer agents who are involved in administering or keeping backup records with respect to otherwise sufficiently decentralized and autonomous security tokenization protocols from specific compliance requirements that conflict with, are redundant with respect to, or undermine the benefits of such blockchain systems (e.g., regarding processing times, record formats, etc.); and
    - create a 'fast-lane' for registration of a special type of transfer agent specializing in securities tokenization on decentralized/autonomous blockchain systems, which may allow for such transfer agent to have limited administrative authorities (limited rollbacks of illegal/erroneous transactions, protocol upgrades necessitated by changes in law,

emergency halts due to security incidents, etc.) over such a system notwithstanding the system's generally decentralized/autonomous structure.

- **Explore Smart Contract Equivalency:** Evaluate how automated smart contracts can demonstrably fulfill specific transfer agent functions (e.g., dividend distribution, stock splits, shareholder voting mechanisms) and assess whether successful implementation could justify streamlined requirements or safe harbors, potentially initiated through a structured pilot program.
- **Define Standards for Blockchain Record-Keeping:** Establish clear standards for blockchain systems (considering security, immutability, access controls, auditability) deemed suitable to serve as the primary, authoritative record for registered securities.

Addressing the transfer agent bottleneck is a critical, high-leverage step. Clarifying that blockchain can be the primary record-keeping system will remove a major impediment to innovation and allow the market to capture the true benefits of this technology.

Conclusion

Modernizing the approach to transfer agent functions is not merely beneficial, but essential if the U.S. is to fully harness the advantages of tokenization and solidify its leadership position in increasingly competitive global financial markets. By recognizing blockchain's capabilities and adapting regulations, the SEC can reduce friction, lower costs, and enable more efficient and transparent securities markets.

Etherealize is dedicated to building compliant, innovative solutions. We welcome the opportunity to provide further input and technical expertise to support the Task Force's work on this crucial issue.

Sincerely,

Etherealize and Gabriel Shapiro